

**INSTRUCTIONS FOR FILING A
PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. §2254
FOR A PERSON IN STATE CUSTODY**

1. **WHO SHOULD USE THIS FORM.** You should use this packet if you: (1) are in state custody; (2) wish to challenge the fact or duration of your confinement; (3) believe your federal constitutional rights have been violated; and (4) do not have a licensed attorney to represent you.
2. **FILL OUT THE FORM.** Petitions must be filed on the attached form. All questions on the form must be answered truthfully and concisely in the proper space on the form. Additional pages are not permitted except with respect to the facts upon which you rely to support your grounds for relief.
3. **STATE ONLY FACTS.** Your petition must only set forth the facts upon which you rely in support of your petition for relief. No citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.
4. **TYPE OR PRINT THE PETITION.** Your petition must be typed or legibly handwritten.
5. **PAPER SIZE.** All pleadings and other papers submitted for filing must be on 8 ½" x 11" paper (letter size paper not legal size paper).
6. **RESPONDENT.** Generally the respondent is the Warden at the institution in which you are confined.
7. **FILING FEE.** The filing fee of \$5.00 must be paid at the time of filing. If you do not have the filing fee, you may request to proceed *in forma pauperis*. In requesting to proceed *in forma pauperis*, you must provide the court with information regarding your financial situation and complete the attached forms provided for this purpose.
8. **EXHAUSTION OF STATE COURT REMEDIES.** All claims which you seek to present here must have first been fairly presented to all state courts that have the power to consider them so that the state courts have the first opportunity to consider each of your claims. This court cannot grant relief unless you have exhausted all available state court remedies. See 28 U.S.C. §2254(b)(1).
9. **SECOND OR SUCCESSIVE PETITIONS.** There are strict limits on filing second or successive petitions which address issues which have been presented in prior petitions for writ of *habeas corpus* filed under 28 U.S.C. §2254. See 28 U.S.C. §2244(a), (b). In any event, before a second or successive petition permitted by this section is filed in this district court, the petitioner must obtain authorization from the U.S. Court of Appeals for the Fifth Circuit. See 28 U.S.C. §2244(b)(3).
10. **PRESENTATION OF ALL CLAIMS.** If this is your first petition for writ of *habeas corpus* filed under 28 U.S.C. §2254, please note that you must include all grounds for relief and all facts supporting such grounds for relief in the petition. Failure to include all grounds for relief may result in those grounds not included being barred at a later date.
11. **SCOPE OF PETITION.** Only judgments entered by one court may be challenged in a single petition. If you seek to challenge judgments entered by different courts either in the same or different states, you must file separate petitions as to each court.
12. **STATUTE OF LIMITATIONS.** A 1 year period of limitation shall apply to an application for writ of *habeas corpus* filed by a person in state custody. See 28 U.S.C. §2244(d)(1).
13. **WHERE TO MAIL.** When the petition is fully complete, the original and two copies, along with the filing fee or application to proceed *in forma pauperis* must be mailed to: **Clerk of Court, United States District Court, Western District of Louisiana, 300 Fannin Street, Suite 1167, Shreveport, Louisiana 71101-3083.**
14. **DEFICIENT PETITIONS.** Petitions which do not conform to these instructions will be returned with a notation as to the deficiency.

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA**
_____Division

Petitioner's Name, Prisoner Number

Sec.P.
Civil Action Number

State Court Docket Number

Judge

VS.

Respondent (person having custody of petitioner)

Magistrate Judge

PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY

1. T h e n a m e a n d a d d r e s s o f y o u r p r e s e n t p l a c e o f c o n f i n e m e n t :

2. Are you presently in custody pursuant to the conviction(s) or sentence that you seek to challenge here?

Yes _____ No _____

3. With regard to the conviction(s) or sentence you are attacking state:

- a. The name, address, and parish of the court entering the judgment of conviction:

- b. The date of judgment of conviction: _____

- c. The length of your sentence: _____

- d. The nature of each offense you were convicted of: _____

- e. Whether you were convicted of each offense following a plea of:

- i. Not guilty _____

- ii. Guilty _____

- iii. Nolo contendere _____

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details: _____

f. If you pleaded not guilty, what kind of trial did you have? (check one)

i. Jury _____

ii. Judge only _____

g. Did you testify at trial?

Yes ____ No ____

4. Statute of Limitations

28 U.S.C. § 2244(d) establishes a 1 year statute of limitations for an application for a writ of habeas corpus. Is this application barred by this 1-year period of limitation? YES _____ NO _____

If not, state why not? _____

5. Grounds for Present Petition

State concisely each and every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. You may attach pages stating additional grounds and facts supporting same.

WARNING: Absent exceptional circumstances, if you fail to set forth all grounds in this petition, you will be barred from presenting additional grounds at a later date. See 28 U.S.C. § 2244.

a. Ground one: _____

Supporting FACTS (state briefly without citing cases or law) _____

b. Ground two: _____

Supporting FACTS (state briefly without citing cases or law) _____

- _____
- _____
- _____
- _____
- c. Ground three: _____
- _____
- _____
- Supporting FACTS (state briefly without citing cases or law) _____
- _____
- _____
- _____
- _____
- _____
- d. Ground four: _____
- _____
- _____
- Supporting FACTS (state briefly without citing cases or law) _____
- _____
- _____
- _____
- _____
- _____

6. Direct Appeals

- a. Did you file a direct appeal from your judgment of conviction or sentence?
Yes ____ No ____
- b. If you did file a direct appeal, for you initial appeal, answer the following:
- i. The name and address of the court where you first appealed:

- ii. The result of this appeal.

- iii. The date of the decision. _____

iv. The citation and/or docket number of the decision (if known).

_____ v. The

grounds raised in your present habeas petition that were raised in this direct appeal.

c. If you sought review of your appeal by a higher court, answer the following:

i. The name and address of the court where you next applied for review:

ii. The result of this appeal.

iii. The date of the decision. _____

iv. The citation and/or docket number of the decision (if known).

v. The grounds raised in your present habeas petition that were raised in this earlier application for review:

d. If you filed a petition for certiorari in the U.S. Supreme Court, please answer the following with respect to each such petition:

i. The result. _____

ii. The date of the result. _____

iii. The citation and/or docket number (if known).

iv. The grounds raised in your present habeas petition that were raised in this earlier appeal..

7. Post-Conviction or other Collateral Review

a. Other than the direct appeals described above, have you previously filed any petitions, applications, or motions with respect to your judgment of conviction or sentence in the state court?

Yes _____ No _____

- b. If so, give the following information with regard to the first petition, application, or motion you filed:
- i. The name and address of the court. _____

 - ii. The nature of the proceeding. _____

 - iii. The date it was filed. _____
 - iv. The grounds raised in your present habeas petition that were raised.

 - v. Did you receive an evidentiary hearing? Yes _____ No _____
 - vi. The result. _____

 - vii. Did you appeal or file an application for review to higher state courts having _____ jurisdiction?
Yes _____ No _____
 - viii. If not, briefly explain why you did not. _____

 - ix. If so, name the court(s) to which you applied, the date of the final result in each court, and the result in each court: _____

- c. If you filed a second petition, application, or motion, give the following information with regard to that filing:
- i. The name and address of the court. _____

 - ii. The nature of the proceeding. _____

 - iii. The date it was filed. _____
 - iv. The grounds raised in your present habeas petition that were raised.

- v. Did you receive an evidentiary hearing? Yes _____ No _____
- vi. The result. _____

- vii. Did you appeal or file an application for review to higher state courts having jurisdiction?
 Yes _____ No _____
- viii. If not, briefly explain why you did not. _____

- ix. If so, name the court(s) to which you applied, the date of the final result in each court, and
 the result in each court: _____

8. Exhaustion of State Remedies

Generally, any ground that you seek to present here must have first been presented to the state courts. See 28 U.S.C. § 2254(b). Attach copies of previous petitions, applications, or motions filed with the state courts where you presented each of the grounds listed in Part 5. If any of the grounds listed in Part 5 above have not been previously presented to the highest state court that has the power to consider it, state briefly what grounds were not so presented, and give your reasons for not presenting them:

9. Prior Federal Habeas Petitions

- a. Have you filed any other petition in any federal court where you sought to attack the same conviction(s) or sentence you are challenging here? Yes _____ No _____
- b. If so, give the following information:
- i. The name and address of the court where it was filed. _____

- ii. The docket number. _____
- iii. The grounds raised. _____

10. Other Pending Actions

- a. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment you are attempting to attack here? Yes _____ No _____
- b. If so, please give the following information:
- i. The name and address of the court. _____

- ii. The docket number of the action. _____
- iii. The nature of the proceeding. _____

11. Attorneys Representing Petitioner

Give the name and address of each attorney who represented you in the following stages of the judgment attacked herein:

- a. At the preliminary hearing. _____

- b. At the arraignment and plea. _____

- c. At trial. _____

- d. At sentencing. _____

- e. On appeal. _____

- f. In any post-conviction proceeding. _____

- g. On appeal from any adverse ruling in a post-conviction proceeding. _____

12. Other Sentences

- a. Where you sentenced for more than one offense in the same court and at the same time?
Yes _____ No _____
- b. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack? Yes _____ No _____
- i. If so, give the name and location of the court which imposed the sentence to be served in the future. _____

- ii. Give the date and length of the said sentence. _____

- iii. Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future? Yes _____ No _____

Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

Signature of Attorney (if any)

Signature of Petitioner